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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,949	04/19/2001	Jean-Louis Excoffier	01-02 US	4507

7590

09/22/2003

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EXAMINER

MAHATAN, CHANNING

ART UNIT

PAPER NUMBER

1631

DATE MAILED: 09/22/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/839,949

Applicant(s)

EXCOFFIER, JEAN-LOUIS

Examiner

Channing S. Mahatan

Art Unit

1631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-29 and 43-56.

Claim(s) withdrawn from consideration: 30-42.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☐ Other: _____

Marianne P. Allen
MARIANNE P. ALLEN
PRIMARY EXAMINER
GROUP 1800-

AC11631

Continuation of 2. NOTE: Newly added claims 57-66 present new limitations and issues not previously examined. Currently pending claims 30-42 are withdrawn from examination, however, have not been cancelled.

Continuation of 5. does NOT place the application in condition for allowance because: Applicants' arguments in Paper No. 13, filed 19 August 2003, has been considered, however, has been found unpersuasive. Amendments to the instant claims fail to overcome rejections under 35 U.S.C. 112 1st Paragraph (Enablement) and 112 2nd Paragraph (Vague & Indefinite). The claims fail to enable any person of skill in the art to which it pertains, or with which it is most connected, to use the disclosed invention; "method and system for classification of chromatograms" (page 15, line 6 of the Specification). For instance, classification by similarity, dissimilarity, and distance. Further, absent from the instant claims is a threshold characteristic/value at which one of ordinary skill in the art can discern as being "bad"/"flawed" data and thus, processed by filtering. Therefore, for reasons of record the rejections in Paper No. 28, mailed 09 April 2003, are maintained.